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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,184	01/02/2002	David I. Poisner	42390.P12974	6681
7590	11/04/2004		EXAMINER	
Saina S. Shamilov BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025-1026			PHAN, THANH S	
			ART UNIT	PAPER NUMBER
			2841	
			DATE MAILED: 11/04/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

158

Office Action Summary	Application No.	Applicant(s)	
	10/037,184	POISNER, DAVID I.	
	Examiner	Art Unit	
	Thanh S Phan	2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5 and 48-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5 and 48-60 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant response to the Election/Restrictions on 08/16/04 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 55 and 58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite a "C1 power state", which is an industry standard. Since the industry standards are subject to change and/or revision over a period of time, the recitation of the industry standard in a claim, makes the claim vague and indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5 and 48-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunstan [US 5,714,870].

Regarding claims 48-60, Dunstan discloses an electronic device configured for monitoring power consumed while said device is in a reduced power condition, comprising an electrical energy storage unite powering said device, a processor, a

Art Unit: 2841

memory, a display device and a power consumption monitor, said power consumption monitor including means for respectively determining when said electronic device enters and exits the reduced-power state, a means for determining a charge capacity of said electrical energy storage unit before and after said electronic device is in the reduced power state, a means for determining a period of time for calculating charge capacity lost by said electrical energy storage unit during the period of time that the electronic device is in the reduced power state [column 9, lines 27-41]. Dunstan discloses the claim invention except for explicitly mentioned that the entering time is stored in the chip. The examiner takes official notice that it is well known to use chips to stores data/information in the micro-processing environment such as notebook computer. It would have been obvious to one of ordinary skill in the art at time of the invention was made to store data in a chip or a memory means in Dunstan to facilitate rapid access to stored data for calculations purpose.

Regarding claims, 1-3 and 5, the method steps are necessitated by the apparatus structure.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maher et al. [US 6,343,363] ; Sakabe [US 5,691,948] ; Fujita et al. [US 2002/0095494]; Aoyama [US 6,763,471].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh S Phan whose telephone number is 571-272-2109. The examiner can normally be reached on M-F 9:00-5:00.

Art Unit: 2841

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamand Cuneo can be reached on 571-272-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tsp



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